

REMARKS

Claims 1 and 3 have been amended to more particularly point out and more distinctly claim the subject matter that the applicant regards as his invention. In that regard, the claims recite structural and functional features that enable the claimed passenger bridge to pass over the wing of an aircraft in which the passenger doors are below the level of the tallest point of the aircraft wing, which is generally the wing tip. As was noted in the specification at paragraph [0007], and as shown in the drawings, very large aircraft having two passenger flight decks, such as the Airbus A-380, have passenger rear doors for the lower flight deck that are located below the level of the wing tips. And it is that problem of access of a passenger bridge to such passenger rear doors to which the present invention is directed.

Claims 1-3 were rejected as obvious based upon the combination of the Hutton et al. '615 and the Thomas, Jr. '936 references. The present invention as hereinabove claimed is clearly distinguishable over the Hutton et al. reference in that that reference shows a two-part, over-the-wing passenger bridge, but only one part of which, the outer part, is telescopically extendable. The inner part of the Hutton bridge is not telescopically extendable, as is the inner part of the bridge of the claimed invention. See Hutton et al., col. 7, lines 47-49, specifically disclosing "a fixed length passageway member 2," and Figures 1a, 2a, 3a, 3c, 5, 6, and 7b, each of which shows a fixed length inner passageway member. That structural feature of the Hutton passenger bridge of a fixed length inner bridge part requires that in parking an aircraft at a

1907

order to be properly positioned relative to the passenger bridge, which could lead to aircraft damage if the aircraft parking maneuver of a heavy aircraft is not carefully and properly executed and the aircraft wing comes into contact with the bridge drive means 19, whereas in the claimed invention the aircraft can be safely parked, because it is the lighter and more easily controllable passenger bridge that is positioned relative to the parked aircraft.

Another difference between the claimed invention and the Hutton et al. reference resides in the fact that in that reference the rotunda is not vertically movable but is stationary. See Hutton et al., col. 7, line 45, which teaches "a stationary rotunda 4." In distinct contrast, the present invention as claimed recites "a ground-mounted vertical pillar for supporting the rotunda and including lifting means to change the length of the pillar and thereby displace the rotunda in a vertical direction."

A still further and significant difference between the claimed invention and the Hutton et al. reference resides in the fact that the outermost end of the outer part of the Hutton structure is either aligned with the inner part of the bridge or is below the inner part. See, for example, Figures 2b, 4a, and 4b of Hutton. In the claimed invention, on the other hand, the outermost end of the outer part is movable between a position at which it is above the longitudinal axis of the inner part of the bridge, to a position at which it is below the longitudinal axis of the inner part of the bridge. That arrangement allows the bridge to freely pass over the aircraft wing tip as the bridge swings horizontally from its initial, parked position away from the aircraft, to its position at which the bridge overlies the aircraft wing.

1907

It also allows the outer part of the bridge to be positioned at an aircraft door that is below the level of the aircraft wing. In view of those several structural and functional differences, the Hutton et al. reference clearly neither discloses nor suggests the invention as it is claimed in amended claim 1.

The Thomas, Jr. reference, which is directed to an entirely different structure to respond to an entirely different problem, was cited for disclosing a rotunda including a lifting device. The lifting device is provided merely to move the rotunda between two vertically spaced passenger zones, not for the purpose of positioning the inner end of the bridge relative to the outer end to allow adjustment of the angle of inclination of the bridge. See Thomas, Jr., col. 2, lines 45-49; and col. 3 lines 14-16.

Significantly, however, the Thomas, Jr. reference relates to a passenger bridge having only one telescopic section – it does not disclose a bridge having both an inner part and an outer part, each of which is telescopically extendable. And that one section is not disclosed as passing over the wing of an aircraft as claimed in amended claim 1 of the present application, but, instead, is connected with an aircraft door that is located forward of the wing, as clearly shown in Figure 1 of that reference. The Thomas, Jr. reference thus is incapable of over-the-wing use, because the outermost end of the bridge includes an unidentified wheeled device, which does not enable placement of the outermost end of the Thomas, Jr. bridge at a rear door of an aircraft. Consequently that reference does not disclose or suggest the invention as it is claimed in amended claim 1.

1907

Claim 3 as amended clarifies an operational mode of the claimed invention and demonstrates its versatility.

In view of the different problems to which the references relied upon each relate, and in view of the absence of any teaching or suggestion in the references that would lead one to combine their disclosures, there has not been established a *prima facie* case of obviousness. Clearly, the references themselves contain no disclosures that would motivate one to even attempt their combination, and the examiner has not cited any such motivating disclosure in either of the references.

Additionally, it is not apparent which elements of one reference should be combined with which elements of the other reference, nor is it apparent in which way the elements are to be combined, nor is it apparent which elements are to be omitted from the combination. Only by some hindsight guidance gleaned from knowledge of what is contained in the present disclosure would one even consider a combination of the disclosures of the different structures shown in the references that were relied upon, and to combine them in some particular way - the Hutton et al. reference discloses a two-part passenger bridge, but only the outer part is extendable, and the Thomas, Jr. reference discloses a one-part passenger bridge that is incapable of over-the-wing use. But it is an improper basis for an obviousness rejection to use as a road map or as a template an inventor's disclosure to aid in picking and choosing particular parts of particular references that allegedly can be combined to render obvious that which only the inventor has taught.

1907

Although one could in hindsight assert, as the examiner has done, that it would be obvious to combine the Thomas, Jr. pillar structure with the Hutton et al. structure, such a hindsight assertion is improper. In that regard, for there to be a sufficient showing of a motivation to combine the teachings of references, that motivation must be supported by referring to some relevant and identifiable source of information that would provide the necessary motivation. The mere existence of particular elements in different references is not sufficient to suggest their combination in a particular way. And conclusory statements of possible advantages that might, again in hindsight, lead one to combine the teachings of several references, and assumptions of what an ordinarily skilled person would or would not do, are by themselves insufficient to support a conclusion that there exists a motivation to combine references and to do so in a particular way. Consequently, the mere after-the-fact assertion of a subjective possible convenience or advantage that might be achieved by combining the teachings of different references is insufficient to support a conclusion of motivation to combine and of obviousness of a claimed combination. Thus, the structural differences and the different problems to which the respective references are directed argue against their combination because no motivation has been shown to cause one to combine the references and to do so in a particular way.

And, finally, because the structures of neither of the references are capable of use to access with a passenger bridge the rear doors of aircraft having two different flight deck levels, one of which is below the wing tip level, even if the references were to be combined as suggested by the examiner, that combination

1907

would not include either the claimed structure or the claimed functionality of the present invention.

Claims 2 and 3 each depend from claim 1, either directly or indirectly, and therefore those claims are also distinguishable over the references relied upon and for the same reasons as are given above in connection with claim 1. Furthermore, the dependent claims include additional recitations that further distinguish the invention as so claimed from the teachings of the references.

Based upon the foregoing amendments and remarks, the claims as they now stand in the application are believed clearly to be in allowable form. The claims patentably distinguish over the disclosures contained in the references that were cited and relied upon by the examiner, whether those references be considered under 35 U.S.C 102 or of 35 U.S.C 103. Consequently, this application is believed to be in condition for allowance, and reconsideration and reexamination of the application is respectfully requested with a view toward the issuance of an early Notice of Allowance.

The examiner is cordially invited to telephone the undersigned attorney if this amendment raises any questions, so that any such question can be quickly resolved in order that the present application can proceed toward allowance.

Respectfully submitted,



Alfred J. Mangels
Reg. No. 22,605
4729 Cornell Road
Cincinnati, Ohio 45241
Tel.: (513) 469-0470

March 31, 2009